

WILLIAM H. ATKINS.

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JANUARY 19, 1897.—Committed to the Committee of the Whole House and ordered to be printed.

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Mr. LESTER, from the Committee on War Claims, submitted the following

REPORT.

[To accompany S. 296.]

The Committee on War Claims, to whom was referred the bill (S. 296) entitled "A bill for the relief of William H. Atkins," beg leave to submit the following report, and recommend that said bill do pass, without amendment:

The facts out of which this bill for relief arises will be found stated in Senate report from the Committee on Military Affairs of the present Congress.

The investigation of the claim by your committee leads them to the same conclusions as those reached by the Committee on Military Affairs of the Senate. It is therefore deemed unnecessary to recapitulate the facts set forth in that report, a copy of which is hereto attached for information.

Your committee recommend the passage of the bill.

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[Senate Report No. 784, Fifty-fourth Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 296) for the relief of William H. Atkins, formerly commissary sergeant, United States Army, have had the same under consideration, and respectfully report as follows:

Similar bills have been favorably reported by the Senate Committee on Military Affairs of the Fifty-first, Fifty-second, and Fifty-third Congresses. In each instance when opportunity for consideration was had the bill was passed by the Senate. Your committee adopt the report of the Senate Committee on Military Affairs of the Fifty-third Congress, as follows:

The Committee on Military Affairs, to whom was referred the bill (S. 1501) for the relief of William H. Atkins, formerly commissary sergeant, United States Army, have had the same under consideration, and report it back favorably and recommend its passage.

This bill was reported favorably by your committee at the first session of the Fifty-first Congress, as follows:

The petitioner, William H. Atkins, asks that he may be paid the sum of \$145, which he claims is due him as travel pay and allowance from the place of his discharge from the Army, to wit, Fort Craig, in N. Mex., to St. Augustine, Fla., the place of his last enlistment.

The facts appear to be as follows:

The petitioner enlisted at New York, December 19, 1866, and served in Company B, Sixteenth United States Infantry, as private, corporal, sergeant, and first sergeant until about April 21, 1869, when he was discharged by reason of being rendered supernumerary in the consolidation and reorganization of his company and regiment with Company F, Second United States Infantry. He reenlisted at New York, May

21, 1869, and was assigned to said Company F, Second United States Infantry, in which he served as a private, sergeant, and first sergeant until July 4, 1873, when he was promoted and appointed post commissary sergeant, serving as such until discharged May 21, 1874. He reenlisted at St. Augustine, Fla., and served there until about November 1, 1877, when he was transferred to Fort Craig, N. Mex., and was discharged there August 5, 1878, and being denied travel pay and allowance was compelled to expend the sum claimed to reach the place of his enlistment in Florida, a distance of 1,851 miles.

He made his claim to the Second Auditor of the Treasury, who, under date of March 11, 1889, said: "As you were discharged at your own request, by way of favor, you are not entitled to traveling allowances," and his claim was disallowed.

In Special Orders, No. 168, War Department, dated August 5, 1878, discharging the petitioner, the Adjutant-General uses the following language: "He is not entitled to travel pay."

The Revised Statutes, section 1290, on the point at issue, provide as follows:

SEC. 1290. When a soldier is discharged from the service (except by way of punishment for an offense) he shall be allowed transportation and subsistence from the place of his discharge to the place of his enlistment, enrollment, or original muster into the service. The Government may furnish the same in kind, but in case it shall not do so, he shall be allowed travel pay and commutation of subsistence for such time as may be sufficient for him to travel from the place of discharge to the place of his enlistment, enrollment, or original muster into the service, commuted at the rate of one day for every 20 miles.

Your committee fail to discover the semblance of any warrant in either the letter or spirit of this statute for the ruling of the Second Auditor or the language used by the Adjutant-General of the Army.

In a letter to the Secretary of War from the Adjutant-General of the Army, dated March 14, 1890, it appears that the denial of travel pay in this case was "based on the rules of the Treasury Department."

Your committee fail to conceive what right that Department or the War Office has to inject into a statute some fanciful rule of its own to defeat the plain intention of Congress, and to deny justice to men who faithfully serve their country on a very small stipend.

It is true that because of the sickness of the wife of the petitioner, he asked for his transfer to a milder climate, or else his discharge, but there can be no degree of equity in pretending that a soldier who simply asks for his transfer or a discharge is thereby guilty of such an "offense" as it was the manifest purpose of the law-making power to punish by deprivation of travel pay and allowance.